

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

REX CHAPPELL,

Plaintiff,

No. CIV S-04-1183 LKK DAD P

vs.

C.K. PLILER, et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On June 11, 2009, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Defendants have filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. The court has also become aware that since the issuance of the findings and recommendations, the Court of Appeals has reversed the district court's decision in Norwood v. Vance, No. 2:03-cv-2554-GEB-GGH, on which the

1 magistrate judge's findings and recommendations in the instant case had relied heavily. The  
2 Norwood petitioner has since sought rehearing en banc and the Court of Appeals has directed  
3 appellants to file a response.


4 Because the Court of Appeals' resolution of Norwood is highly relevant to the resolution  
5 of the instant case, particularly on the issue of qualified immunity of the defendants in factual  
6 circumstances virtually identical between the two cases, the court finds that it is appropriate to  
7 stay the case pending the Norwood decision.

8 Accordingly, it is hereby ORDERED that:

- 9 1. This action is STAYED pending the Court of Appeals' resolution of the motion  
10 for rehearing en banc in Norwood v. Vance.  
11 2. The defendants SHALL notify the court within twenty days of the resolution of  
12 that motion.

13 IT IS SO ORDERED.

14 DATED: September 4, 2009.

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17 LAWRENCE K. KARLTON  
18 SENIOR JUDGE  
19 UNITED STATES DISTRICT COURT  
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